To whom it may concern:

I am writing to you to demand that the Studio City Improvement Association cease and desist from violating the Brown Act as described below and to request that, in order to avoid costly and unnecessary litigation, you respond per the Brown Act at California Government Code §54960.2 with an unconditional commitment to so cease and desist.¹

1 Background

- 1. Business improvement districts ("BIDs") are assessment districts which are authorized and regulated by the Property and Business Improvement District Act of 1994 ("the PBID law"). The PBID law at Streets and Highways Code §36612 requires a city to contract with a non-profit corporation to administer each BID. Such a non-profit corporation is called an "owners' association."²
- 2. Having entered into Contract C-125141 with the City of Los Angeles in September 2014 to administer the Studio City BID ("SCBID") the Studio City Improvement Association ("SCIA") is the owners' association for that BID.
- 3. Owners' associations in California are made subject to the Brown Act by the PBID law at §36612, which states:
 - ... an owners' association shall comply with the Ralph M. Brown Act ... at all times when matters within the subject matter of the district are heard, discussed, or deliberated
- 4. Owners' associations are defined in the Brown Act at §54952(c)(1)(A) to be "legislative bodies." The definition there states in pertinent part:

As used in this chapter, "legislative body" [includes] ... A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that ... Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

¹ Please note that all citations to the Brown Act in this document are to the California Government Code.

² PLesae note that all citations to the PBID law in this document are to the California Streets and Highways Code.

2 The facts

2.1 September 17, 2018

2.1.1 Prior to the board meeting

- 5. On September 17, 2018 at 4:40 p.m. I arrived at the gate of CBS Studio Center at 4024 Radford Avenue in Los Angeles, California 91604 in order to attend a scheduled meeting of the board of directors of the SCIA.
- 6. I was asked by security guard Jarod Rodino to produce ID. I asked him if ID were required to enter the facility and he told me that it was required. I handed him my California driver's license.
- 7. He asked what my business was and I told him I was there to attend the BID meeting. He called his dispatcher. He told me that the dispatcher said that the meeting was not open to the public and that I could not attend without permission. He asked me if I had a contact for my visit and I gave him BID executive director John Walker's name.
- 8. After another phone call Rodino agreed to let me enter the facility. He then processed my driver's license with an electronic device and printed out a visitor's pass with my name on it.

2.1.2 Subsequent to the board meeting

9. The agenda for the September 17, 2018 meeting listed a closed session scheduled to convene after the open public meeting was adjourned. The description of this meeting read in full:

Executive session to discuss personnel matters. Closed to public.

See Exhibit 7.0.1 on page 8.

10. After the open meeting was adjourned by board president Tony Richman he asked members of the public to leave. I asked executive director John Walker whether the board would reconvene in open session to report any actions taken in the closed session. He told me that they would not. I asked why and he told me that there were going to be no actions to report so that they weren't required to reconvene.

2.2 May 23, 2018

11. On May 23, 2018 at 7:36 a.m. SCBID executive director John Walker emailed the entire SCIA board of directors to inform them that the City of Los Angeles was considering locating a homeless shelter within the SCBID boundaries:

FYI - -

In case you do not know, there is a current study being proposed to use the Parking Lot, within our BID off of Ventura Blvd., as a temporary homeless

shelter. They will conducting [sic] a *feasibility study* to determine if it will work.

If you wish to offer your opinions, please write to councilmemberkrekorian@lacity.org

See Exhibit 7.0.2 on page 11.

12. On May 23, 2018 at 10:16 a.m. board member Matthew Dunn replied to the entire SCIA board of directors, stating:

Great. Like we don't need the parking.

See Exhibit 7.0.3 on page 13.

13. On May 23, 2018 at 4:10 p.m. SCIA board president Tony Richman replied to the entire SCIA board of directors, stating:

John & All; Is this the "Park Safe" overnight only parking program that was discussed at our annual meeting that is meant to be strictly voluntary by the property owners?? Although I hate the idea, it's being discussed as if it will be approved encampments. Did I misunderstand? T

See Exhibit 7.0.4 on page 15.

14. On May 23, 2018 at 5:56 p.m. John Walker replied to the entire SCIA board of directors, stating:

Tony -

This is a program that has been initiated by the Mayor, who is allocating \$1.3M to each district to help house the homeless. This study is being done only on City owned properties at this time – the (other option) you are writing about has yet to be fully released, but if a property owner wishes to allow that property to be used for overnight housing and overseen by the City, that is an option and I think they are now looking at some sort of compensation.

See Exhibit 7.0.5 on page 17.

3 The Law

15. The Brown Act at §54953.3 states:

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

16. The Brown Act at $\S54957(b)(1)$ states:

(b)(1)... this chapter shall not be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

17. The Brown Act at §54954.2(a) states:

At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

18. The Brown Act at §54954.5(e) states:

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format. . . . With respect to every item of business to be discussed in closed session pursuant to Section 54957:

. . .

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

19. The Brown Act at §54957.7(b) states:

After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

20. The Brown Act at $\S54952.2(b)(1)$ states:

A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

4 Conclusions

4.1 September 17, 2018

4.1.1 Violation of the Brown Act at §54953.3

- 21. On September 17, 2018 the SCIA violated the Brown Act at §54953.3 by holding a meeting for which I, a member of the public, was "required, as a condition to attendance..., to register [my] name" with security guard Jarod Rodino and in the venue's computer system.
- 22. The SCIA violated this same section of the Brown Act by holding a meeting for which I was required to produce my driver's license and therefore all the personal information it contains as a condition of attendance.
- 23. The SCIA violated this same section of the Brown Act by holding a meeting for which I was required to name a contact person as a condition of attendance.

4.1.2 Violations of the Brown Act relating to the closed session

- 24. The Brown Act at §54957(b)(1) allows a closed session to be held in relation to personnel matters for only five enumerated reasons: "appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee." The Brown Act at §54954.5(e) gives the information which must be included in the agenda descriptions required by the Brown Act at §54954.2(a) for these causes. The description given by the SCIA for its closed session, "to discuss personnel matters," is inadequate by these standards. The SCIA therefore violated the Brown Act at §54954.2(a) by failing to give an adequate description of matters to be discussed in closed session.
- 25. The Brown Act at §54957.7(b) requires the SCIA board to reconvene into open session "[a]fter any closed session ... [and] prior to adjournment ..." The SCIA violated this section by failing to reconvene into open session after their closed session.

4.2 May 23, 2018

4.2.1 Violation of the Brown Act at $\S54952.2(b)(1)$

- 26. Parking is explicitly included in the subject matter jurisdiction of the SCIA. See for instance the SCBID's 2018 Annual Planning Report ("APR"), which states explicitly that 23% of the BID's budget is to be spent on "Streetscape, Capital, Parking, and Safety Improvements." In that same section "parking programs" and "address[ing] parking ... issues" are included among planned activities. The entire APR is available here from the City of Los Angeles. See Exhibit 7.0.6 on page 19 for an extract of the relevant pages.
- 27. On May 23, 2018 the SCIA violated the Brown Act at §54952.2(b)(1) by discussing, deliberating, and/or taking action on items of business within their subject matter jurisdiction. outside of an authorized meeting.

5 The harm done

28. These violations are not just incidental, technical, nor harmless. Rather, they implicate fundamental constitutional rights that the people of California have reserved to themselves. The Brown Act at §54950 states:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

- 29. By holding meetings in a facility entry to which is conditioned on producing identification the SCIA excludes from its meetings citizens who by circumstance or choice do not possess ID or who happen not to have it with them when they intend to attend a public meeting. Furthermore this requirement deprives citizens of the fundamental constitutional right to participate anonymously in public meetings and to make anonymous public comments on the proceedings.
- 30. By failing to provide an adequate description of matters to be discussed in closed session the SCIA has deprived the public of an opportunity to provide comment on these matters.
- 31. By neglecting to reconvene in open session after a closed session the SCIA has deprived the public of knowledge of actions taken in closed session or of the knowledge that no actions were so taken.

32. By discussing the people's business in secret via email this Board has deprived the public of the opportunity to be present when public business is discussed, to observe the actions of its decision makers, and to attempt to influence those actions via public comment or other forms of political action.

6 Demand for relief

- 33. The SCIA's multiple failures to comply with the requirements of the Brown Act constitute a grave betrayal of both fundamental and consequential principles of our government. It is therefore in the best interest of all concerned that the BID not only cease and desist from such violations in the future but that they make a public commitment to ceasing and desisting.
- 34. If the SCIA responds to this demand within 30 days of today's date with a letter expressing an unconditional commitment to cease and desist from all future violations of this type in substantially the form given by the Brown Act at §54960.2(c) I will consider this matter at an end. Please send this letter to me by email at adrian@foutu.org and by postal mail at:



For the sake of efficiency please either confirm my receipt of this letter or send it in such a way that its arrival is trackable.

- 35. If the SCIA refuses to so respond or so responds after 30 days have passed I will instruct my attorneys to proceed to "file an action to determine the applicability of this chapter to [the above-described] past actions of the" SCIA under §54960.2 of the Brown Act. If I prevail in that action the Brown Act at §54960.5 allows for the court to award costs and reasonable attorneys' fees to me.
- 36. If litigation over these matters becomes necessary it is possible that the question of whether the closed session held by the SCIA at its meeting on September 17, 2018 was in fact authorized by the Brown Act. If this happens it's possible that the court will want to hear the SCIA's recording of this closed session in camera. Therefore after the manner of a standard litigation hold please do not erase or destroy the SCIA's recording of the September 17, 2018 meeting until this matter is settled to the satisfaction of all concerned.

Thank you for your prompt attention to this important matter,



7 Exhibits

 $7.0.1 \quad \text{September 17, 2018} - \text{SCIA board meeting agenda}$

SCBD BOARD

Tony Richman
Patrick Parhami
Gilbert Stayner
Alfredo Annino
Barry Wise
Dean Cutler
Matthew Dunn
Joseph Sitkin
Mike Sitkin
Ben Besley
Frank Leon
Mikayel Israyelyan
Peter Sgori



BOARD MEETING

Monday, September 17, 2018

Meeting 5:00pm

Mack Sennett - Conference

Room

CBS Studio Center,

4024 Radford, Studio City CA, 91604

www.TheSCBD.com

SCBD OFFICERS

PRESIDENTTony Richman

Vice President

TREASURER
Patrick Parhami

SECRETARYGilbert Stayner

Executive Director John Walker

- 1. Call to order (1 min).
- 2. Roll Call by Executive Director 7 board members needed for quorum (2 min)
- 3. Public Comments (5 min).
- 4. President's Comments and introduction of possible candidates who have expressed interest in joining our Board: (20 min).

Dr Sako Karakozian (Business Owner)

Dr Ali Sadrieh (Business Owner)

Peter Jarjour – THE FLASK (Business & Property Owner)

- 5. Presentation discussion and Motion to Approve July 16, 2018 Minutes Attached (2 min).
- 6. Presentation, discussion and motion to approve Treasurer's Report: General Ledger for July & August 2018, Journal entries for Credit Card July & August, and bank reconciliation for July-August 2018, all documents provided (3 min).
- 7. Presentation (from Serge Tachdjian) Director of Operations for Securitech and Discussion and Possible Motion for additional Security within the BID (30 min)
- 8. Presentation, discussion and possible Motion to approve Painting all Fire Hydrants (46) within the District acceptable by the City. (5 Min).



- 9. Presentation from Gabriel Anguiano, Operations Manager for Stay Green about replacing the Controllers for the watering system to allow them to be checked by computer. (10 Min).
- 10. Nominations to serve out term for Vice-President (10 min).
- 11. Presentation, discussion and Motion to approve Holiday Banner program for the installation and removal of Parking and Holiday Banners (54) and City Fees at a cost of \$3,733.60 (3 min).
- 12. Presentation, discussion and Motion to approve our Annual Two-Hour Free Parking program beginning on Black Friday of 2018 and ending on New Year's Day of 2019 (3 min).
- 13. Updates from Executive Director: (10 min).
 - a. Included in your packet is our current MDP Mr. Sitkin requested it be available at this meeting so that everyone is aware of our mission.
 - b. We have submitted all Drafts of both of our Management District plan, along with our Engineer's report, so we a bit in front on this. After they review and return with edits, in October we will Finalize and submit all Reports for approval from the City Clerk.
 - c. Introduce possible Signage for Studio City District.
- 14. Board Comments not on the Agenda (10 min).
- 15. Adjournment (1 min).
- 16. Executive Session to discuss personnel matters. Closed to public.

7.0.2 May 23, 2018 – John Walker to SCIA Board

Subject: SCBID Transient Removal(2), 05-22-18 PR SCBID Transient Removal

From: JOHN WALKER < john@thescbd.com>

Date: 05/23/2018 07:36 AM

To: Damian Gatto <damian@thescbd.com>, Ben Di Benedetto

<bendiben@earthlink.net>, Dean Cutler <dcutler@illicre.com>, Patrick Parham

Parhami <Patrick@parhamilawgroup.com>, Mikayel Israyelyan

<mike@muselifestylegroup.com>, Alfredo Annino <alfredoannino@yahoo.com>,

"Gilbert A. Stayner" <gasarch@aol.com>, Matthew Dunn <MatthewDunn@theconwaycompany.com>, Barry Wise

<barrywise@earthlink.net>, Mike Sitkin <Mikesitkin@gmail.com>, Joseph Sitkin
<sitkin-jg@sbcglobal.net>, Frank Leon <Frank@thevillagestudiocity.com>, Tony
Richman <latonyr@gmail.com>, Ben Besley <bbesley@midwoodid.com>, Peter
Sgroi <Peter@pinzbowl.net>

FYI - -

In case you do not know, there is a current study being proposed to use the Parking Lot, within our BID off of Ventura Blvd., as a temporary homeless shelter. They will conducting a *feasibility study* to determine if it will work.

If you wish to offer your opinions, please write to councilmemberkrekorian@lacity.org

John Walker
Executive Director
Studio City Business District
4024 Radford Ave, Edit 2, Suite A
Studio City, Ca 91604
Ofc: 818.655.5377
Fax: 818.655.8327
john@thescbd.com
www.thescbd.com

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 $7.0.3 \quad {\rm May} \ 23, \ 2018 - {\rm Matthew} \ {\rm Dunn} \ {\rm to} \ {\rm SCIA} \ {\rm Board}$

Subject: Re: SCBID Transient Removal(2), 05-22-18 PR SCBID Transient Removal

From: Matthew Dunn < Matthew Dunn@theconwaycompany.com>

Date: 05/23/2018 10:16 AM

To: JOHN WALKER < john@thescbd.com>

CC: Damian Gatto <damian@thescbd.com>, Ben Di Benedetto

<bendiben@earthlink.net>, Dean Cutler <dcutler@illicre.com>, Patrick Parham

Parhami <Patrick@parhamilawgroup.com>, Mikayel Israyelyan

<mike@muselifestylegroup.com>, Alfredo Annino <alfredoannino@yahoo.com>,

"Gilbert A. Stayner" < gasarch@aol.com >, Barry Wise

<barrywise@earthlink.net>, Mike Sitkin <Mikesitkin@gmail.com>, Joseph Sitkin
<sitkin-jg@sbcglobal.net>, Frank Leon <Frank@thevillagestudiocity.com>, Tony
Richman <latonyr@gmail.com>, Ben Besley <bbesley@midwoodid.com>, Peter
Sgroi <Peter@pinzbowl.net>

Great. Like we don't need the parking.

Sent from my iPhone

On May 23, 2018, at 7:36 AM, JOHN WALKER < john@thescbd.com > wrote:

FYI - -

In case you do not know, there is a current study being proposed to use the Parking Lot, within our BID off of Ventura Blvd., as a temporary homeless shelter. They will conducting a *feasibility study* to determine if it will work.

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7.0.4 May 23, 2018 – Tony Richman to SCIA Board

Subject: Re: SCBID Transient Removal(2), 05-22-18 PR SCBID Transient Removal

From: Tony Richman < latonyr@gmail.com>

Date: 05/23/2018 04:10 PM

To: District Studio City Business <john@thescbd.com> **CC:** Tony Richman <latonyr@gmail.com>, SCBD OFFICE

<damian@thescbd.com>, DI BENEDETTO BEN <bendiben@earthlink.net>,

CUTLER DEAN <dcutler@illicre.com>, PARHAMI PATRICK <Patrick@parhamilawgroup.com>, ISRAYELYAN MIKAYEL <mike@muselifestylegroup.com>, ANNINO ALFREDO

<alfredoannino@yahoo.com>, STAYNER GIL <gasarch@aol.com>, DUNN MATT

<MatthewDunn@theconwaycompany.com>, WISE BARRY

<barrywise@earthlink.net>, SITKIN MIKE <Mikesitkin@gmail.com>, Joseph Sitkin
<sitkin-jg@sbcglobal.net>, LEON FRANK <Frank@thevillagestudiocity.com>,

BESLEY BEN
bbesley@midwoodid.com>, Peter Sgroi <Peter@pinzbowl.net>

John & All; Is this the "Park Safe" <u>overnight only</u> parking program that was discussed at our annual meeting that is meant to be strictly <u>voluntary</u> by the property owners?? Although I hate the idea, it's being discussed as if it will be approved encampments. Did I misunderstand? T

On May 23, 2018, at 7:36 AM, JOHN WALKER < iohn@thescbd.com > wrote:

FYI - -

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john@thescbd.com www.thescbd.com

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7.0.5 May 23, 2018 – John Walker to SCIA Board

Subject: Re: SCBID Transient Removal(2), 05-22-18 PR SCBID Transient Removal

From: JOHN WALKER <john@thescbd.com>

Date: 05/23/2018 05:56 PM

To: Tony Richman < latonyr@gmail.com>

CC: SCBD OFFICE <damian@thescbd.com>, Ben Di Benedetto

<bendiben@earthlink.net>, Dean Cutler <dcutler@illicre.com>, Patrick Parham

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<sitkin-jg@sbcglobal.net>, Frank Leon <Frank@thevillagestudiocity.com>,
BESLEY BEN <bbesley@midwoodid.com>, Peter Sgroi <Peter@pinzbowl.net>

Tony -

This is a program that has been initiated by the Mayor, who is allocating \$1.3M to each district to help house the homeless. This study is being done only on City owned properties at this time - the (other option) you are writing about has yet to be fully released, but if a property owner wishes to allow that property to be used for overnight housing and overseen by the City, that is an option and I think they are now looking at some sort of compensation.

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On May 23, 2018, at 4:10 PM, Tony Richman < latonyr@gmail.com wrote:

John & All; Is this the "Park Safe" <u>overnight only</u> parking program that was discussed at our annual meeting that is meant to be strictly <u>voluntary</u> by the property owners?? Although I hate the idea, it's being discussed as if it will be approved encampments. Did I misunderstand? T

On May 23, 2018, at 7:36 AM, JOHN WALKER < <i >john@thescbd.com

wrote:

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7.0.6 $\,$ SCBID 2018 Annual Planning Report pages 5 and 6

District Name

This report is for the Studio City Business Improvement District (District). The District is operated by Studio City Improvement Association, Inc., a private non-profit organization.

Fiscal Year of Report

The report applies to the 2018 Fiscal Year. The District Board of Directors approved the 2018 Annual Planning Report at the November 6, 2017 Board of Director's meeting.

Boundaries

There are no changes to the District boundaries for 2018.

Benefit Zones

There are no changes to the District's benefit zone(s) for 2018.

2018 IMPROVEMENTS, ACTIVITIES AND SERVICES

Landscaping, Sanitation and Beautification: \$289,384.05 (42.00%)

Zone 1 will receive Sanitation personnel, trash disposal, sidewalk cleaning, graffiti removal, tree trimming and landscaping services. Zone 2 will receive Sanitation personnel, trash disposal, sidewalk cleaning, graffiti removal and tree trimming services.

Marketing: \$82,681.16 (12.00%)

Zone 1 and 2 will receive website presence, other marketing promotions and the newsletter. Only Zone 1 will receive holiday decorations. A marketing program will be implemented to promote the image of Studio City, attract and increase pedestrian and vehicular traffic, and promote the use of the Studio City Public Parking Structure and may include advertising, website, decorations, parking incentives, periodic shuttle services, or other promotions.

Streetscape, Capital, Parking and Safety Improvements: \$158,472.22 (23.00%)

Includes projects such as streetscape projects (i.e., purchase of trash receptacles or benches), one-time long lasting capital improvement projects (i.e., median construction or alley repaving), parking programs (i.e., parking promotions or periodic shuttle services), and safety improvements or enhancements (i.e., crosswalk improvements, safety personnel, speed feedback signs). Zone 1 will receive capital improvements, streetscape, address parking or safety issues, possible periodic shuttle services and safety enhancements. Zone 2 services will

include streetscape projects and address parking or safety issues.

Administration: \$124,021.72 (18.00%)

Implementation of the programs outlined in the Management District Plan for the special benefit of the individual assessed parcels. This effort may also include pursuing opportunities such as applying for grants.

<u>Uncollected Assessments/Contingency: \$34,450.48 (5.00%)</u>

Funds in the Uncollected Assessment Reserve/ Contingency category may be used for City/County collection fees, uncollected assessments, consulting fees, Business Improvement District (BID) renewal fees and additional projects the Owner's Association deems appropriate. This category will ensure that there are sufficient funds to provide PBID services.

Total Estimate of Cost for 2018

A breakdown of the total estimated 2018 budget is attached to this report as **Appendix A**.

Method and Basis of Levying the Assessment

Individual assessable parcels shall be assessed by linear feet of parcel street frontage and square feet of parcel lot size, according to each parcel's proportionate special benefit derived from the services provided to that parcel in that benefit zone. The 2018 assessment rates are as follows:

Zone 1
Parcel Lot sq. ft. = \$0.035
Ventura Blvd. Parcel Frontage In. ft. = \$19.25
All Other Parcel Frontage In. ft. = \$5.77

Zone 2 Parcel Lot sq. ft. = \$0.018 Parcel Frontage ln. ft. = \$1.92

(There is No CPI increase for 2018)

Surplus Revenues: \$203,659.02

We had allocated \$65,000 for our Shuttle program - we were fortunate to have the CD2 Council office and MTA offer free buses and the council office pick up charges - the difference is being directed towards our Lighted "Gateway to Studio City" which will create ambient lighting up and down our entire corridor.